

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1570 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ZAVERBHAI JAKSIBHAI DESAI

Versus

CHARUMATIBEN WD/O BHANUSHANKERPANDYA

Appearance:

MR MC BHATT for Petitioners

MR RN SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 17/11/97

ORAL JUDGEMENT

Rule, Service of rule waived by Mr. R.N. Shah,
learned advocate for the respondents.

2. Parties to this revision application are parties to Regular Civil Suit No. 492 of 1997. There is another suit being Regular Civil Suit No. 395 of 1990 in respect of the same subject matter, which is in progress before

the learned trial Judge being Civil Judge (S.D.) Ahmedabad Rural at Mirzapur. In so far as the present proceedings are concerned, the interim injunction application with regard to alleged construction was dismissed by the trial Court, but the appellate Court granted it and the petitioners were restrained from making any construction in the land in question. The petitioners have, therefore, filed the present revision application against the order of the appellate Court.

3. After some amount of submissions Mr. M.C. Bhatt, learned advocate appearing for the petitioners conceded that the petitioners would prefer an appropriate application before the trial Court seeking permission to make construction in the land in question after obtaining appropriate sanction from the concerned authority with an approved plan for making construction. Under such circumstances, he has also conceded for the following order being passed in the present revision application. Mr. R.N. Shah, learned advocate appearing for the respondents has also conceded for the following order being passed in this revision application :-

- (i) The order passed by the appellate Court is maintained subject to a rider that as and when the petitioners move an application before the trial Court for granting permission as stated above, the same shall be decided in accordance with law without being influenced by the appellate Court's order which is challenged in this revision application.
- (ii) Regular Civil Suit No. 492 of 1997 shall be placed for hearing before the same Court before whom Regular Civil Suit No. 395 of 1990 is placed for hearing, bearing in mind the fact that the land in question is the subject matter in both the suits.
- (iii) Regular Civil Suit No. 395 of 1990 and Regular Civil Suit No. 492 of 1997 shall be heard expeditiously and since Regular Civil Suit No. 395 of 1990 is pending part-heard, both the suits will proceed further with the evidence before the same Court and both the suits shall be disposed of as early as possible, preferably within a period of six months from the date of receipt of writ of this direction. The learned advocates have conceded before this Court that the learned advocates appearing before the trial Court will cooperate in expeditious disposal of both the

suits.

Subject to what is stated above, rule is discharged. No order as to cost. Direct service is permitted to both the parties.

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